

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

7.731 ACRES OF LAND, MORE OR
LESS, SITUATE IN STARR COUNTY,
STATE OF TEXAS; AND SYLVIA G.
SALINAS, et al.,

Defendants.

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CASE NO. 7:20-CV-250

**JOINT MOTION FOR ORDER ESTABLISHING JUST COMPENSATION,
GRANTING POSSESSION, DISTRIBUTING FUNDS ON DEPOSIT IN THE REGISTRY
OF THE COURT, AND CLOSING CASE**

Plaintiff, United States of America (hereinafter “United States”) and Defendants Sylvia G. Salinas, Manuel S. Guerra, Rosa Maria G. Guerra, Ruben Roberto Guerra, Maria Dolores G. Saenz, Elizabeth D. Garcia, Joel A. Guerra, III, Anna G. Munoz, and Deborah Ann G. Perez Lugo (hereinafter “Defendants”) hereby file this Joint Motion for Order Establishing Just Compensation, Granting Possession, Distributing Funds on Deposit in the Registry of the Court, and Closing Case, and in support hereof state the following:

1. On August 31, 2020, the United States filed a Declaration of Taking for the condemnation of a fee simple interest in 7.731 acres of land, more or less, located in Starr County, Texas, identified as Tracts RGV-RGC-2005, RGV-RGC-2005-1, RGV-RGC-2006, and RGV-RGC-2042 (hereafter “Subject Property”).¹

2. On September 8, 2020, the United States deposited \$77,000.00 into the Registry of

¹ Dkt. No. 2.

the Court as estimated total just compensation for the fee taking of the Subject Property.² Pursuant to 40 U.S.C. § 3114(b)(1), the filing and the deposit immediately vested title to the Subject Property in the United States.

3. On August 6, 2021, the United States deposited \$48,000.00 into the Registry of the Court as additional total just compensation for the fee taking of the Subject Property.³

4. The United States and Defendants now make this joint motion for an Order: (a) establishing one-hundred twenty-five thousand and 00/100 dollars (\$125,000.00) as the total just compensation for the Subject Property, (b) granting possession of the Subject Property, (c) disbursing the stipulated amount of just compensation, as directed below, from the funds on deposit in the Registry of the Court, and (d) closing this case on the Court's docket. As grounds for this motion, the parties jointly state:

- a. The United States and Defendants confirm and agree that the full and just compensation payable by the United States for the taking of the Subject Property shall be the sum of one-hundred twenty-five thousand and 00/100 dollars (\$125,000.00), plus any accrued interest earned thereon while on deposit, which sum is all inclusive and in full satisfaction of any claims of whatsoever nature by Defendants against the United States for the institution and prosecution of the above-captioned action.
- b. The United States agrees that existing irrigation lines will be sleeved in place should construction of the border fence proceed on the Subject Property. The United States additionally agrees that should construction move forward on the Subject Property, a suitable irrigation line will be installed from the canal on the riverside of the border fence to the land side of the border fence to allow for continued irrigation to the land

² Dkt. No. 6.

³ Dkt. No. 31.

side of the border fence.

- c. The parties now respectfully request that judgement be entered against the United States in the amount of one-hundred twenty-five thousand and 00/100 dollars (\$125,000.00) for its taking of the Subject Property, along with any accrued interest.
- d. The United States has previously deposited a total of one-hundred twenty-five thousand and 00/100 dollars (\$125,000.00) into the Registry of the Court.⁴ The United States and Defendants agree that title to Subject Property vested in the United States by operation of law.
- e. The parties agree that the United States shall be entitled to immediate possession and all persons in possession or control of the interests taken in the Subject Property should be ordered by the Court to surrender possession of the same to the United States.
- f. The total sum of one-hundred twenty-five thousand and 00/100 dollars (\$125,000.00) currently on deposit with the Registry of the Court, plus any accrued interest earned thereon while on deposit, shall be subject to all real estate taxes, liens, encumbrances, and charges of whatsoever nature existing against the interests in the property taken in this proceeding at the time of vesting of title in the United States, and all such real estate taxes, liens, encumbrances, and charges of whatsoever nature shall be payable and deductible from this sum.
- g. Upon the Court's Order entering final judgment in accord with this stipulation of just compensation, the parties seek immediate disbursement of one-hundred twenty-five thousand and 00/100 dollars (\$125,000.00) on deposit in the Registry of the Court, together plus any accrued interest earned thereon since the deposit dates of September

⁴ Dkt. Nos. 6 & 31.

8, 2020⁵ (\$77,000.00) and August 6, 2021⁶ (\$48,000.00), payable to:

Barron, Adler, Clough & Oddo, LLP as trustee for Defendants:
Sylvia G. Salinas, Manuel S. Guerra, Rosa Maria G. Guerra, Ruben
Roberto Guerra, Maria Dolores G. Saenz, Elizabeth D. Garcia, Joel A.
Guerra, III, Anna G. Munoz, and Deborah Ann G. Perez Lugo.
808 Nueces St.
Austin, Texas 78701

- h. Defendants warrant (a) they were the owners of the Subject Property taken in this proceeding on the date of taking; (b) they have the exclusive right to the compensation herein, excepting the interests of parties having liens, encumbrances of record, and unpaid taxes and assessments, if any; and (c) that no other party is entitled to the same or any part thereof by reason of any unrecorded agreement.
- i. In the event that any other party is ultimately determined by a court of competent jurisdiction to have any right to receive compensation for the interest in the Subject Property, Defendants shall refund into the Registry of the Court the compensation distributed herein, or such part thereof as the Court may direct, with interest thereon at an annual rate provided in 40 U.S.C. § 3116 from the date of receipt of the respective deposit by Defendants, to the date of repayment into the Registry of the Court.
- j. Defendants shall be responsible for their own legal fees, costs, and expenses, including attorney fees, consultant fees, and any other expenses or costs.
- k. There being no outstanding taxes or assessments due or owing, Defendants are responsible for the payment of any additional taxes or assessments which they otherwise owe on the interest in the property taken in this proceeding on the date of taking.

⁵ Dkt. No. 6.

⁶ Dkt. No. 31.

- l. Defendants shall take no appeal from any rulings or judgments made by the Court in this action, and the parties consent to the entry of all motions, orders, and judgments necessary to effectuate this stipulated judgment.
- m. Defendants shall save and hold harmless the United States from all claims or liability resulting from any unrecorded leases or agreements affecting the interests in the properties taken in this proceeding on the date of taking.
- n. This joint stipulation and motion is binding on the heirs, trustees, executors, administrators, devisees, successors, assigns, agents, and representatives of Defendants.
- o. The parties request the Court enter an order closing this case on the Court's docket.

Respectfully submitted,

**FOR DEFENDANTS SYLVIA G. SALINAS,
MANUEL S. GUERRA, ROSA MARIA G.
GUERRA, RUBEN ROBERTO GUERRA,
MARIA DOLORES G. SAENZ,
ELIZABETH D. GARCIA, JOEL A.
GUERRA, III, ANNA G. MUNOZ,
AND DEBORAH ANN G. PEREZ LUGO:**

FOR PLAINTIFF:

JENNIFER B. LOWERY
Acting United States Attorney
Southern District of Texas

BARRON, ADLER, CLOUGH & ODDO, LLP

By: *s/ Roland D. Ramos*

By:


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Attorney in Charge for the United States of
America

CERTIFICATE OF SERVICE

I, Roland D. Ramos, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on September 13, 2021, a copy of the foregoing was served in accordance with the Federal Rules of Civil Procedure.

By: *s/ Roland D. Ramos*
ROLAND D. RAMOS
Assistant United States Attorney